

SERVICE DATE – LATE RELEASE FEBRUARY 12, 2004

SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 33388 (Sub-No. 91)

CSX CORPORATION AND CSX TRANSPORTATION, INC.,  
NORFOLK SOUTHERN CORPORATION AND  
NORFOLK SOUTHERN RAILWAY COMPANY  
— CONTROL AND OPERATING LEASES/AGREEMENTS —  
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION

[GENERAL OVERSIGHT]

Decision No. 12

AGENCY: Surface Transportation Board, DOT.

ACTION: Decision No. 12 in STB Finance Docket No. 33388 (Sub-No. 91); Notice of Public Hearings in Trenton, NJ, and Washington, DC.

SUMMARY: The Surface Transportation Board (Board) will hold two public hearings in this proceeding: the first on Friday, April 2, 2004, in Trenton, NJ; and the second on Monday, May 3, 2004, in Washington, DC. The hearings will provide a forum for interested persons to express their views on the matters at issue in this proceeding. Persons wishing to speak at either or both of the hearings should notify the Board in writing.

DATES: The public hearings will take place on Friday, April 2, 2004 (in Trenton, NJ), and on Monday, May 3, 2004 (in Washington, DC). Persons wishing to speak at the first hearing (to be held April 2nd, in Trenton, NJ) should file with the Board a written notice of intent to speak (and should indicate a requested time allotment) as soon as possible but no later than March 18, 2004. Persons wishing to speak at the second hearing (to be held May 3rd, in Washington, DC) should file with the Board a written notice of intent to speak (and should indicate a requested time allotment) as soon as possible but no later than April 16, 2004. Any person wishing to speak at both hearings may file a single written notice of intent to speak (provided that such notice is filed by the March 18th deadline for the first hearing) or, if such person prefers, such person may file two separate written notices of intent to speak (provided that each such notice is filed by the appropriate deadline, i.e., March 18th for the first hearing and April 16th for the second hearing). Written statements by persons speaking at either or both of the hearings may be submitted prior to the appropriate hearing but are not required. Persons wishing to submit written statements in advance of the first hearing should do so by March 26, 2004. Persons wishing to submit written statements in advance of the second hearing should do so by April 26, 2004.

ADDRESSES: An original and 10 copies of all notices of intent to speak and any written statements should refer to STB Finance Docket No. 33388 (Sub-No. 91) and should be sent to: Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001.

FOR FURTHER INFORMATION, CONTACT: Julia M. Farr, (202) 565-1655. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.]

SUPPLEMENTARY INFORMATION: In CSX Corp. et al. — Control — Conrail Inc. et al., 3 S.T.B. 196 (1998) (Merger Dec. No. 89), the Board approved, subject to various conditions (including a 5-year general oversight condition): (1) the acquisition of control of Conrail Inc. and Consolidated Rail Corporation (collectively, Conrail) by (a) CSX Corporation and CSX Transportation, Inc. (collectively, CSX) and (b) Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, NS); and (2) the division of the assets of Conrail by and between CSX and NS. Pursuant to Merger Dec. No. 89, acquisition of control of Conrail was effected by CSX and NS on August 22, 1998 (the Control Date), and the division of the assets of Conrail by and between CSX and NS was effected on June 1, 1999 (the Split Date). The transaction that the Board approved in Merger Dec. No. 89 is referred to as the Conrail Transaction.

In Merger Dec. No. 89, the Board established general oversight for 5 years so that the Board might assess the progress of implementation of the Conrail Transaction and the workings of the various conditions the Board had imposed, and the Board retained jurisdiction to impose additional conditions and/or to take other action if, and to the extent, the Board determined that it was necessary to impose additional conditions and/or to take other action to address harms caused by the Conrail transaction. See Merger Dec. No. 89, 3 S.T.B. at 217 (item 38), 365-66, 385 (ordering paragraph 1).

In a recently served decision, see CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company — Control and Operating Leases/Agreements — Conrail Inc. and Consolidated Rail Corporation [General Oversight], STB Finance Docket No. 33388 (Sub-No. 91), Decision No. 11 (STB served January 21, 2004) (Oversight Dec. No. 11), the Board: discussed the issues that had been raised in the fourth annual round of the “general oversight” proceeding; set the schedule for the filing of pleadings in the fifth and final annual round of the “general oversight” proceeding (comments are due on July 1, 2004, and replies are due on August 2, 2004); and announced that, to allow interested parties an opportunity to express their views for the Board’s consideration, at least one public hearing would be held prior to June 1, 2004 (the fifth anniversary of the Split Date).

Because the Board is interested in hearing what members of the public have to say about any matter connected with the Conrail Transaction, the Board has now decided to hold, prior to June 1, 2004, two public hearings at which interested parties will have an opportunity to express, in a public forum, their views respecting such matters. The Board anticipates that interested parties will, if they think it appropriate, follow up on their spoken statements at the public hearings by filing, on or before

July 1st, written comments in the fifth annual round of the “general oversight” proceeding. Interested parties should understand that, although the Board has referred to the fifth annual round as the *final* annual round, and although the due date for written comments to be filed in the fifth annual round comes *after* the fifth anniversary of the Split Date, the formal oversight process of the Conrail Transaction that the Board established when it approved that transaction will not be concluded on June 1, 2004 (the fifth anniversary of the Split Date), but, rather, will be concluded only at such time as the Board issues a decision concluding that formal oversight process. See Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company — Control and Merger — Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company [General Oversight], STB Finance Docket No. 32760 (Sub-No. 21), Decision No. 21 (STB served December 20, 2001), slip op. at 1 (“[W]e are now concluding, as scheduled, our formal oversight process for the UP/SP merger.”), slip op. at 12, ordering paragraph 1 (“The formal oversight process of the UP/SP merger that we established when we approved that merger is concluded.”).

Date/Time/Place Of First Hearing; Subject Matter; Expected Appearances. The first hearing will be held on Friday, April 2, 2004, in Trenton, NJ. The time and the precise location at which the first hearing will be held will be announced in the near future, as soon as final arrangements have been made.

The first hearing will deal with the three “shared assets areas” (SAAs) that were created in connection with the Conrail Transaction. See 3 S.T.B. at 228 (describing the North Jersey SAA, the South Jersey/Philadelphia SAA, and the Detroit SAA). The Board expects that the first hearing will start with testimony by employees of CSX and NS (and also, if CSX and NS so desire, an employee of Conrail) respecting both the present status of operations within the SAAs and also any plans for any future fundamental changes in such operations. Following such testimony, interested parties will have an opportunity to express any concerns they may have respecting any or all of the three SAAs.

Date/Time/Place Of Second Hearing; Subject Matter; Expected Appearances. The second hearing will be held on Monday, May 3, 2004, beginning at 10:00 a.m., in Room 760, the Board’s hearing room, on the 7th Floor at the Board’s headquarters in the Mercury Building, 1925 K Street, N.W. (on the northeast corner of the intersection of 20th St., N.W., and K Street, N.W.), Washington, D.C.

The second hearing will deal with all aspects of the Conrail Transaction other than the SAAs. The Board expects that the second hearing will start with testimony by the CEOs of CSX and NS respecting the non-SAA aspects of the Conrail Transaction. Following such testimony, interested parties will have an opportunity to express any concerns they may have respecting any non-SAA aspect of the Conrail Transaction.

Notice Of Intent To Speak; Written Statements; Paper Copies. Persons wishing to speak at the first hearing (to be held April 2nd, in Trenton, NJ) should file with the Board a written notice of

intent to speak, and should indicate a requested time allotment, as soon as possible but no later than March 18, 2004. Persons wishing to speak at the second hearing (to be held May 3rd, in Washington, DC) should file with the Board a written notice of intent to speak, and should indicate a requested time allotment, as soon as possible but no later than April 16, 2004. Any person wishing to speak at both hearings may file a single written notice of intent to speak (provided that such notice is filed by the March 18th deadline for the first hearing) or, if such person prefers, such person may file two separate written notices of intent to speak (provided that each such notice is filed by the appropriate deadline, i.e., March 18th for the first hearing and April 16th for the second hearing). Written statements by persons speaking at either or both of the hearings may be submitted prior to the appropriate hearing but are not required. Persons wishing to submit written statements in advance of the first hearing should do so by March 26, 2004. Persons wishing to submit written statements in advance of the second hearing should do so by April 26, 2004.

Paper Copies. Persons intending to speak at either or both of the hearings and/or to submit written statements prior to either or both of the hearings should submit an original and 10 paper copies, respectively, of their notices and/or written statements.

Board Releases Available Via The Internet. Decisions and notices of the Board, including this notice, are available on the Board's website at "www.stb.dot.gov."

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Dated: February 12, 2004.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary